

(1) A provision increasing the estimated or ceiling amount referred to in the Limitation of Cost clause of the contract and stating that the clause will thereafter apply in respect to the increase amount; or

(2) A provision stating that the estimated or ceiling amount referred to in the contract is not changed by the modification and that the Limitation of Cost clause will continue to apply with respect to the amount in effect prior to the modification.

(b) A fixed-fee provided in a contract shall not be changed when funding a cost overrun. Changes in fixed-fee will be made only to reflect changes in the scope of work which justify an increase or decrease in fee.

PART 345—GOVERNMENT PROPERTY

Subpart 345.3—Providing Government Property to Contractors

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345.370 Providing Government property (in general).

Subpart 345.4—Contractor Use and Rental of Government Property

345.405 Contracts with foreign governments or international organizations.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 49 FR 14030, Apr. 9, 1984, unless otherwise noted.

Subpart 345.3—Providing Government Property to Contractors

345.370 Providing Government property (in general).

(a) A contractor may be provided Government property or allowed to acquire such property at Government expense upon determination that:

(1) No practicable or economical alternative exists; e.g., acquisition from other sources, utilization of subcontractors, rental of property, or modification of program project requirements, etc.;

(2) The Government receives adequate consideration for providing the property; or

(3) Furnishing Government property is likely to result in substantially

lower cost to the Government for the items produced or services rendered when all costs involved (e.g., transportation, installation, modification, maintenance, etc.) are compared with the cost to the Government of the contractor's use of privately-owned property.

(b) The determination that it is necessary to provide a contractor or subcontractor with property will be made by the contracting officer with the advice of the agency property official.

(c) If the program office is aware, prior to the submission of the request for contract, that it will be necessary to provide prospective contractors with property, a written justification must accompany the request for contract to the contracting activity.

Subpart 345.4—Contractor Use and Rental of Government Property

345.405 Contracts with foreign governments or international organizations.

Upon the request of a foreign government or international organization, or a contractor certifying that it is acting on behalf of a foreign government or international organization, the contracting officer, with advice from the agency property official cognizant of Government property located in the United States, its possessions, or Puerto Rico, may give written approval for its use without charge on contracts or subcontracts thereunder if:

(a) The foreign government or international organization would be authorized to place the contract with the activity concerned under the Foreign Assistance Act of 1961, as amended, or such use is authorized by an agreement with the foreign government;

(b) The foreign government's placement of the contract directly with the contractor is consistent with the best interests of the United States;

(c) It appears that the foreign government will place the contract with the contractor whether or not use is authorized, and no competitive pricing advantage will accrue to the contractor by virtue of its use;

(d) The contractor agrees that no charge for the use of the property will

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be included in the price charged the foreign government under the contract; and (e) The use will not interfere with foreseeable requirements of the United States.